



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/132,157	08/11/1998	LEONARD FORBES	303.229US2	8931

7590

12/31/2002

SCHWEGMAN LUNDBERG WOESSNER & KLUTH
P O BOX 2938
MINNEAPOLIS, MN 55402

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 12/31/2002

37

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance with
37 CFR 1.192(c)**

Application No.
09/132,157

Applicant(s)
FORBES

Examiner
Prenty

Art Unit
2822



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The Appeal Brief filed on Dec 16, 2002 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three TIME PERIODS: (1) ONE MONTH or THIRTY DAYS from the mailing date of this Notification, whichever is longer; (2) TWO MONTHS from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☒ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☒ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):
see attachment.

Mark Prenty

This is the attachment to the Notification of Non-Compliance with 37 CFR 1.192(c).

The brief's statement of the Status of Amendments is not in compliance with 37 CFR 1.192(c)(4), which simply requires a statement of the status of any amendment filed "subsequent to final rejection." In this case, no amendment after the final rejection of July 9, 2002 has been filed.

The brief's statement of the Issues Presented for Review is incomplete and incorrect. Specifically, the four (4) issues presented for review are:

1) whether the rejection of claims 11, 14, 24, 25, 28, 32, 38, 40 and 41 under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Selvakumar et al. (United States Patent 5,426,069) is correct;

2) whether the rejection of claims 13, 26, 27, 39, 42 and 43 under 35 U.S.C. §103(a) as being unpatentable over Selvakumar et al. (United States Patent 5,426,069) together with Crabbe' et al. (United States Patent 5,821,577) is correct;

3) whether the rejection of claims 11, 14, 24, 25, 28, 32, 38, 40 and 41 under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Nakagawa (United States Patent 5,272,365) is correct; and

4) whether the rejection of claims 13, 26, 27, 39, 42 and 43 under 35 U.S.C. §103(a) as being unpatentable over Nakagawa (United States Patent 5,272,365) together with Crabbe' et al. (United States Patent 5,821,577) is correct.

The brief's Grouping of Claims is incomplete because it does not group the claims for each ground of rejection.

The brief does not present an argument under a separate heading for each of the four rejections on appeal, as required by 37 CFR 1.192(c)(8).

In this regard, the brief's statement: "Claims 11, 14, 24, 28, 38, and 40 were rejected under 35 USC § 102(b) as being anticipated by Selvakumar et al. (U.S. Pat. No. 5,426,069). Claims 25, 32, and 41 were rejected under 35 U.S.C. § 102(b) as being anticipated by, or in the alternative under 35 USC § 103(a) as obvious over Selvakumar et al. (U.S. Pat. No. 5,426,069)," is incorrect and incomplete.

First, contrary to the brief's statement, claims 11, 14, 24, 28, 38 and 40 do not stand on different rejection footing than claims 25, 32 and 41. Rather, all of claims 11, 14, 24, 25, 28, 32, 38, 40 and 41, not merely claims 25, 32 and 41, are rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative under 35 USC §103(a) as obvious over Selvakumar et al. (U.S. Pat. No. 5,426,069).

Furthermore, the brief fails to even mention, let alone address, the other ground of rejection of claims 11, 14, 24, 25, 28, 32, 38, 40 and 41; namely, the rejection of claims 11, 14, 24, 25, 28, 32, 38, 40 and 41 under 35 U.S.C. § 102(b) as being anticipated by, or in the alternative under 35 USC § 103(a) as obvious over Nakagawa (U.S. Pat. No. 5,272,365).

Registered practitioners can telephone examiner Prenty at (703) 308-4939. Any voicemail message left for the examiner must include the name and registration number of the registered practitioner calling, and the application's Serial Number. Technology Center 2800's general telephone number is (703) 308-0956.

Mark Prenty
2009/04/22
2009/04/22